

REMARKS

This is in response to the Office Action mailed September 16, 2005 (hereinafter "Office Action"). The original period for response is a shortened statutory period of three months from the mailing date of the Office Action, making this Reply nominally due on December 16, 2005. However, as this Office Action included a final rejection, Applicants have filed a timely Reply within two months of the September 16, 2005, mailing date of the latest Office Action. Accordingly, this Reply is timely filed.

The pending claims are 1-30. The Applicants gratefully acknowledge the Examiner's indication of allowable subject matter, i.e., the allowable claims 3-5, 7-11, 14-16 and 18-21, 29, and 30 which comprise "allowable subject matter," pending their rewriting in independent form, in which are included all of the limitations of the base claim, and any intervening claims. Applicant also gratefully acknowledges the Examiner's allowance of Claims 22-28.

However, the Examiner continues to reject certain of the claims. Applicants respectfully request reconsideration of the rejection of these claims, and further request that those claims also be allowed, for the reasons set forth below.

At page 2 of the Office Action, the Examiner has rejected Claim 1 on the grounds that "Horwinski discloses a telescoping waterway for raising and lowering a nozzle comprising a hollow outer tube, an internally-threaded, rotatably-driven nut 54, and a hollow inner tube comprising pipe 42 and sleeve 48, the hollow inner tube having a threaded outer wall 44 engaging the internally-threaded nut to cause relative axial movement between the hollow inner tube and the hollow outer tube, wherein the nut 54 is positioned at the tip of the hollow outer tube when the inner tube is fully retracted. Because parts 50, 52, and the inner tube are connected to each other and are adapted to slide within the hollow outer tube 40, the inner tube could be fully retracted to where the nut is on top of the tube 40" (emphasis added).

In summary, then, the Examiner asserts that the inner tube (pipe 42, and its sleeve 48, see FIG. 2) could be fully retracted to where the nut 54 (see lower end of FIG. 2 of Horwinski) is on the top of the tube 40.

The Applicants respectfully traverses the Examiner's rejection. The Applicants contend that there cannot be full retraction of the inner pipe, so that the nut 54 is placed on the top of the tube. This is evident from Horwinski, for several reasons.

First, the disclosure of Horwinski provides, at column 3 line 5-10, that the sleeve 48 at its bottom end projects from the outer pipe 40, and is engaged by an operable nut 54.

Applicants submit that nothing at the above-cited portion of Horwinski, nor at any other portion of Horwinski, suggests fully retracting the inner tube 42 in the manner suggested by the Examiner. The Examiner's position appears to be that engagement of the nut 54 with the outer tube 40 would necessarily result in the full retraction of the inner tube 42, thereby positioning the end of the locking sleeve 48 precisely coincident to the end of the outer tube 40. In this position, the locking sleeve 48 would no longer project from the outer pipe 40. Thus, the locking sleeve 48 would no longer include a projecting end.

But this contradicts the actual teachings of Horwinski, which repeatedly shows and requires a projecting end. See especially FIGS. 1 and 2 of Horwinski.

The Examiner also suggests that in this fully retracted position, the nut 54 *could* engage the top of the outer tube 40. But this is speculation, and it contradicts the actual teachings of Horwinski.

Beginning at column 3 line 9, Horwinski states that "(f)urther in accordance with the invention, the bottom end of the outer pipe 40 is provided with an inturned locking bead or shoulder 56 adapted to slidably engage the exterior of the locking sleeve 48."

Applicants assert that there is no teaching in Horwinski that provides that the end of the outer tube 40 actually engages a nut 54. The Horwinski patent only teaches that the end of the outer tube 40 nearest the nut 54 is adapted to slidably engage the exterior surface of the locking sleeve 48.

Full retraction of the inner tube 42, in the manner suggested by the Examiner, would prevent the nut 54 from being exposed. Horwinski repeatedly teaches that the nut 54 must be exposed. If the nut were not exposed, then that nut 54 could not, by definition, be located below

the acoustic ceiling, as shown in FIG. 1, and as discussed at column 3, lines 35 et seq. of Horwinski.

There, Horwinski provides that “it will be seen that the locking nuts 54 are located below the dropped false or acoustic ceiling 30 whereby these are readily accessible for loosening and tightening.”

As taught in Horwinski, and as shown in FIG. 1, because these locking nuts 54 are located below the false ceiling, and because the end of the outer tube 40 is located above the false ceiling, it is not possible under Horwinski that there could be a full retraction, to the point that the nut 54 (see lower end of FIG. 2 of Horwinski) is on the top of the tube 40.

For all of these reasons, Claim 1 is allowable over Horwinski.

Regarding claim 2, that claim has been amended. Particularly, it has been amended to claim that the drive mechanism is integral with and operably connected to the internally-threaded nut. Support for this is set forth in FIG. 1, which shows the internally threaded nut 14 and the adjacent and integral drive mechanism 22; and at page 6, lines 18-20. Pursuant to claim 2, as amended, the drive mechanism 22 is thus an integral part of the device of the invention, not a tool (such as a wrench) that is not a part of the device, but which can be placed onto the threaded nut 14, to move that nut. Nothing in Horwinski teaches or suggests any kind of a tool, nor an integral tool, nor of anything that is operating on that nut, including an actuator. Nor does Horwinski teach a drive mechanism that is integral and operably connected with the internally threaded nut. Thus, claim 2, as amended, is allowable.

Regarding claim 6, the claim is dependent on claim 2, and is therefore allowable, as claim 2 is allowable for the reasons set forth above.

Regarding claim 12, that claim requires both (a) an actuator that moves the hollow inner tube relative to a hollow outer tube, wherein the hollow inner tube can be maintained in at least one intermediate position between a retracted position and a fully extended position; and (b) an internally-threaded, rotatably-driven nut positioned at the top of the hollow outer tube. The actuator of the present invention is shown in FIG. 1 as item 11, and is described at page 5, line 26 et seq.

Nothing in the Horwinski reference shows an actuator of any kind, much less an actuator like that claimed in claim 12. For this reason alone, claim 12 is allowable over Horwinski.

Claim 13 has also been amended in a manner similar to the amendment to Claim 2. Particularly, Claim 13 has been amended to claim that the drive mechanism is integral with and operably connected to the internally-threaded nut. Support for this is set forth in FIG. 1, which shows the internally threaded nut 14 and the adjacent and integral drive mechanism 22; and at page 6, lines 18-20. Pursuant to claim 13, as amended, the drive mechanism 22 is thus an integral part of the device of the invention, not a tool (such as a wrench) that is not a part of the device, but which can be placed onto the threaded nut 14, to move that nut. Nothing in Horwinski teaches or suggests any kind of a tool, nor an integral tool, nor of anything that is operating on that nut, including an actuator. Nor does Horwinski teach a drive mechanism that is integral and operably connected with the internally threaded nut. Thus, claim 13, as amended, is allowable for this reason.

Claims 13 and 17 are dependent upon Claim 12. Because Claim 12 is allowable for the reasons set forth above, dependent claims 13 and 17 are also allowable for this additional reason.

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CONCLUSION

As noted above, the Applicants gratefully acknowledge the Examiner's indication of allowable subject matter, i.e., the allowable claims 3-5, 7-11, 14-16 and 18-21, 29 and 30, which comprise "allowable subject matter," pending their rewriting in independent form, and further gratefully acknowledges the Examiner's allowance of Claims 22-28.

Applicants also now believe Claims 1, 2, 6, 12, 13, and 17 should also be allowed, for the reasons set forth above.

Applicants respectfully request that a timely Notice of Allowance be issued for all claims in this case.

Respectfully submitted,

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CERTIFICATE UNDER (37 C.F.R. § 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 14, 2005.

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